REMARKS

This amendment is a RCE submission to the panel decision of May 27, 2009 and addresses the final Office action of September 30, 2008. Applicants amend claims 1, 5, 6, 9, 15, and 18, and add new method claims 19-22. Claims 1-22 are pending. Applicants request reexamination and reconsideration of the application.

The Office action rejected claims 1-18 as being unpatentable over U.S. Patent No. 6,510,439 B1 to Rangarajan et al. (Rangarajan) and U.S. Patent Application Publication No. 2002/0032701 to Gao et al. (Gao).

Specifically, the Office action asserts (1) Rangarajan substantially teaches the invention as claimed except for a client-side script that "automatically re-requests a resource," (2) Gao teaches a client-side script that automatically re-requests updated data, and (3) it would have been obvious to modify Rangarajan in view of Gao to use a client-side script that automatically re-requests a resource as client-side scripts are more efficient.

However, Rangarajan fails to substantially teach the invention set forth in amended claim 1, because it fails to describe many of its limitations:

1)   Contrary to the Office action, col. 7, lines 8 - 16 of Rangarajan fail to describe a server sending a client-side script to the client. Instead, Rangarajan describes a CGI script used exclusively on the server side. Rangarajan never sends the CGI script to the client. Rangarajan's col. 9, line 65 - col. 10, line 11 also only describe the HTTP server as sending a cookie and a document to a client.

2)   Contrary to the Office action, Rangarajan fails to expressly teach a client-side caching system. Rangarajan never uses "cache," "caching" or "client cache" or "client-side cache" anywhere. The Office has provided no evidence to rebut this.

8

1   **3)** Contrary to the Office action, Rangarajan never says it retrieves a

2 document from a client cache. Instead, Rangarajan retrieves each document from

3 the server (See Rangarajan's Figure 1 and col. 7, lines 8-44).

4

5   **4)** The Office action now argues Rangarajan's col. 9, lines 10-21 and

  lines 38-54 and col. 7, lines 8-44 inherently teach client-side caching of a

6 document.

7

8   **5)** However, inherency may not be established by raising possibilities.

9 The fact a certain thing may result from certain circumstances is not sufficient.

10 *Scaltech Inc. v. Retec /Tetra LLC*, 156 F.3d 1193, 51 USPQ2d 1055 (Fed. Cir. 1999).

11 Inherency requires any missing description is *necessarily present* in the

12 reference and so recognized by persons of ordinary skill. *In re Robertson*, 169 F.

13 3d 743, 49 USPQ2d 1949 (Fed. Cir. 1999).

14

15   **6)** Contrary to the Office action, Rangarajan's col. 7, lines 8-44 fail to

  teach a client-side caching of a document is inherent. In fact, col. 7, lines 8-44 of

16 Rangarajan say it retrieves each document from a server rather than from a client

17 cache. This indicates client-side caching is not necessarily present.

18

19   **7)** Contrary to the Office action, Rangarajan's col. 9, lines 10-21 and 38-

20 54 fail to teach client-side caching of a document is inherent. A client issuing a

21 request with a cookie does not mean client-side caching of a document is

22 necessarily present and noting a possibility is legally insufficient.

23

24   **8)** The Office action paraphrases claim 1 as reciting "automatically re-

25 requesting a resource" then concedes it is not taught by Rangarajan. However

26 helpful the concession it fails to track any language in amended claim 1.

27

28   **9)** Referring to the language of amended claim 1, Rangarajan fails to

  disclose a client-side script function that appends the cookie value to the request

29 for the resource and causes the client to *automatically re-request the resource*

30 *with the appended cookie value* so that if the last version of the resource is in the

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1   client cache, the resource is retrieved from the client cache rather than from the
2   server, and if not, the resource is retrieved from the server (emphasis added).

3
4   10)   Because Rangarajan fails to disclose a server sending a client-side
5   script, and client-side caching and a client-side script function as recited in
6   amended claim 1, the rejection lacks the facts necessary to support a conclusion
7   of obviousness. See *KSR International Co. v. Teleflex Inc.*, 550 U.S. 398 (2007),
8   where the U.S. Supreme Court stated "[R]ejections on obviousness grounds
9   cannot be sustained by mere conclusory statements; instead, there must be
10 some articulated reasoning with some rational underpinning to support the legal
11 conclusion of obviousness."

12 Gao also fails to disclose the client-side script function recited in claim 1:

13
14   1)   Contrary to the Office action, Gao assembles a web page without a
15 client re-request (e.g., a second request) of any resource. Referring to Figure 5,
16 Gao's browser makes a single request for a first web page (entry "1"). After
17 displaying the first web page, Gao's browser makes a single request for each of
18 other files (e.g., images)(entry "3"). After receiving the other files, Gao's
19 JavaScript makes a single request of "update data" (entry "5"). Gao's browser
20 then displays the first web page with the update data (entry "7")(See Gao's
21 paragraphs [0045-0051]).

22   2)   Even if the Office would maintain a client request is a client re-
23 request, Gao cannot be interpreted in any way as disclosing a client-side script
24 function that appends the cookie value to the request for the resource and
25 causes the client to automatically re-request the resource with the appended
26 cookie value so that if the last version of the resource is in the client cache, the
27 resource is retrieved from the client cache rather than from the server, and if not,
28 the resource is retrieved from the server as recited in amended claim 1.

29
30 Because the client-side script function in amended claim 1 is absent in both
    Rangarajan and Gao, they cannot establish a prima facie case of obviousness.

See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) which held a reference did not render the claimed combination prima facie obvious because *the Patent Office ignored that a claim limitation was absent in the reference.*

We also submit there is no motivation to combine Rangarajan with Gao:

1)   Rangarajan and Gao do not discuss the problem of reducing latency and bandwidth usage yet reliably providing the last version of a resource (e.g., web page).

2)   No evidence is given in the Office action why running a script on a client is more efficient than on a server.

3)   The examiner's proposal to shift Rangarajan's server-side operation to the client-side fails to state how it will not destroy Rangarajan's function to provide coherent access to users of different versions of documents on an HTTP server (See page 9, lines 16 - page 10, line 7 of amendment of April 19, 2007).

4)   The Office has not responded to the import of *In re Gordon*, 733 F.2d 900, 221 USPQ 1125 (Fed. Cir. 1984) that held an obviousness rejection is improper if the modification of the reference destroys its intent, purpose, or function, since there would be no technological motivation for such a modification.

In view of the above, amended claim 1 is allowable over Rangarajan and Gao, and claims 2-4 are allowable due to dependency on claim 1.

Contrary to the Office action on page 4, Rangarajan fails to describe the response includes *a non-displayed relatively small page* and fails to describe a *client-side script* in the entity body of the response as recited in claim 3.

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1   Contrary to the Office action on page 4, Rangarajan fails to describe a *client-side*
2   *script* that appends the cookie value to the request embedded in a displayed page
3   as recited in claim 4.

4
5   Contrary to the Office action on pages 4-5, Rangarajan and Gao do not teach
6   amended claim 5 for the reasons discussed in connection with amended claim 1.

7   Contrary to the Office action on page 5, Rangarajan fails to teach inserting a
8   client-side script into the entity body of the response as recited in claim 6.
9
10 Rangarajan also fails to describe that "the client-side script appends the cookie
11 value to the URL of the web page requested to form a rewritten URL and causes
12 the client to automatically re-request the resource with the rewritten URL as
13 recited in amended claim 6 and its dependent claim 7.

14 Contrary to the Office action on pages 5-6, Rangarajan fails to describe the server
15 setting the cookie value by determining the last modified time of each web page
16 in the same class as the web page which is the subject of the request, and setting
17 the cookie value to the maximum value of the last modified times as recited in
18 claims 7-8.
19
20 Contrary to the Office action on pages 6-8, Rangarajan and Gao fail to describe
21 claims 9-14 for reasons similar to those in connection with amended claim 1.

22 In addition, Rangarajan and Gao do not disclose a client-side script that without
23 another user selection for the resource causes the client to automatically re-
24 request the resource as recited in amended claim 9.
25
26 Claims 10-14 are separately patentable for the additional limitations recited
27 therein.
28
29 Contrary to the Office action on pages 8-9, Rangarajan and Gao do not teach
30 amended claim 15 and its dependent claims 16-17 for reasons similar to that
    discussed in connection with amended claim 1.

1   Amended claim 18 is allowable for reasons similar to that discussed in

2   connection with amended claim 1.

3
    New claims 19-22 recite methods performed in a server to implement client-side
4
    caching.
5

6   It is submitted that the application is in condition for allowance. If the examiner

7   has questions or comments, please send an email to schedule an interview

8   before the first Office action.

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11   Respectfully submitted,

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